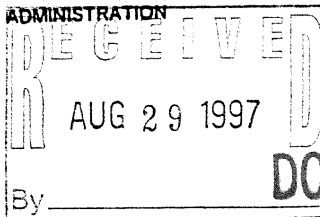


ORDER

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

1600.24D

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LISTENING-IN TO OR RECORDING CONVERSATIONS ON TELEPHONE OR
SUBJ: TELECOMMUNICATIONS SYSTEMS

1. PURPOSE. This order revises and updates the policy of the Federal Aviation Administration (FAA) with regard to monitoring and/or listening-in to conversations on telephone or telecommunications systems. It implements provisions of the Federal Information Resources Management Regulation (FIRMR) (Title 41 CFR Part 201-21.603) and Order DOT 1600.17B, Use of Recording or Monitoring Equipment, Practices, and the Listening-in or Recording of Telephone Conversations, dated September 21, 1990.

2. DISTRIBUTION. This order is distributed to the branch level in Washington headquarters, regions, centers, and overseas area offices, with a standard distribution to each field office and facility.

3. CANCELLATIONS.

a. Order 1600.24C, Use of Recording or Monitoring Equipment and Practices, dated April 26, 1978, is canceled.

b. Annual Report of Recording or Monitoring Equipment and Practices (RIS:SE-1600-26) is canceled.

4. BACKGROUND. The FIRMR describes the circumstances under which agencies are authorized to listen-in to or record telephone conversations. It applies to consensual listening-in or recording that takes place when at least one party to a telephone conversation knows that recording or monitoring is taking place and has given his or her prior consent. The FIRMR does not apply to listening-in or recording that is nonconsensual and done without the knowledge of any of the parties to the conversation. Nonconsensual recording and monitoring is governed by the Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. 2510 et seq.), the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), United States Intelligence Activities, Executive Order 12333, or any successor order.

5. EXPLANATION OF CHANGES.

a. The title of the order has been changed.

b. The purpose paragraph has been modified to cite the appropriate Code of Federal Regulations (CFR.)

c. A background paragraph has been added to explain the scope of the FIRMR and its relation to telephone system monitoring other than consensual.

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Initiated By: ACP-300

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- d. The definitions portion has been expanded and transferred to an appendix.
- e. A responsibilities paragraph has been added to include responsibilities of the Associate Administrator for Civil Aviation Security.
- f. Requirements for maintaining accurate records have been revised and updated in light of current organizational changes.
- g. The Annual Report of Recording or Monitoring Equipment and Practices (RIS:SE-1600-26) is not continued. In its place, this directive provides for a memorandum listing of recording and monitoring equipment to be submitted on an annual basis. The memorandum approach is more cost effective and achieves economies in eliminating the need for maintaining special forms to report the same information.
- h. The Office of Civil Aviation Security Operations (ACO) is assigned the responsibility for preparation and submission of the consolidated listing of recording and monitoring equipment.
6. DEFINITIONS. The key terms used in this order are defined and explained in Appendix 1, Glossary.
7. RELATED PUBLICATIONS. Prohibitions against recording or monitoring of telephone conversations by FAA employees are addressed in paragraph 215, in the latest edition of Order 3750.4, Conduct and Discipline. Paragraph 216 of the same order prescribes duties of FAA employees to report violations. Surreptitious recording of interviews is prohibited by paragraph 6-5f, Order 1600.20B, Civil Aviation Security Investigations Handbook.
8. AUTHORITY TO CHANGE THIS ORDER. The Associate Administrator for Civil Aviation Security (ACS-1) is authorized to issue changes to the appendices to this order.
9. POLICY. It is the policy of FAA that employees, contractor personnel, and military representatives assigned to FAA shall not listen-in to or record conversations on any General Services Administration (GSA) provided telephone system, any telephone system acquired under a delegation of GSA procurement authority, or any telecommunications system approved in accordance with the Federal Property and Administrative Services Act of 1949, as amended, except as provided for in the FIRMR and this order for activities involving law enforcement, national security, public safety, special situations where a Federal employee has a disability, public service monitoring, and where all parties consent.
10. DETERMINATION. A determination as used in this order means a written justification signed by the Administrator or his/her designee that specifies the operational need for listening-in to or recording telephone conversations. The determination shall indicate the specific system and location where monitoring is to be performed and list the number of telephones or recorders involved. The determination shall also establish the operating times and the expiration date for the monitoring.
11. FAA DETERMINATIONS. FAA officials authorized by this order to make determinations shall not make a favorable determination regarding need for consensual listening-in or recording of conversations on the Federal Telecommunications System (FTS) or any other telephone or telecommunications system approved in accordance with the Federal Property and

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Administrative Services Act of 1949, as amended, except under the conditions specified in the following paragraphs and Appendix 3, Procedures.

12. LAW ENFORCEMENT, NATIONAL SECURITY, AND COUNTERINTELLIGENCE. The FIRM provides for recording and monitoring of conversations when performed for law enforcement, counterintelligence, or communications security purposes in accordance with procedures established by the agency head. These procedures shall be in conformance with applicable laws, regulations, DOT directives, and executive orders governing such activities. (Refer to 41 CFR Part 201-21.603(c)(1) and appendix 3.)

a. No determination shall be made by an FAA official for recording or monitoring of this nature within the FAA without the prior approval of ACS-1.

b. Prior to approving a determination for this type of operation, ACS-1 shall coordinate with the OST Director, Office of Security, M-70, for approval to ensure that all DOT requirements have been addressed.

13. PUBLIC SAFETY. FAA employees engaged in public safety activities such as air traffic control (ATC) are authorized to conduct consensual recording and monitoring of conversations in pursuance of their official duties provided the recording and monitoring have been documented prior to implementation by a determination approved by the Secretary of Transportation or his/her designee citing the public safety needs.

a. The determination may be in the form of a notice in the Federal Register, an FAA manual or order signed by the Administrator or his/her designee, or other type of official publication available to the general public and used to disseminate public policy and procedures.

b. The determination shall identify the segment of the public needing protection and cite examples of the hurt, injury, danger, or risks from which the public is to be protected. Examples of public safety activities are police and fire department operations, FAA command centers, and ATC services.

14. RESPONSIBILITIES.

a. THE ASSOCIATE ADMINISTRATOR FOR CIVIL AVIATION SECURITY (ACS-1) is responsible for:

(1) Ensuring that the provisions of this order are implemented agencywide.

(2) Making the determination in writing regarding approval for installation of devices for recording and/or monitoring of conversations on telephone systems within the ACS organization at both headquarters and field locations.

b. OFFICE OF CIVIL AVIATION SECURITY OPERATIONS (ACO) is responsible for:

(1) Monitoring and oversight of the implementation of the provisions of this order agencywide and for maintaining accurate records of the usage of recording and monitoring equipment.

(2) Serving as the focal point for ACS for collecting data submitted from headquarters, regions, and centers on recording and monitoring devices and transmitter cut-off switches installed.

(3) Preparing in accordance with this order and submitting to M-70, by July 15 of each year, the annual consolidated statement of information on recording and monitoring devices being utilized by the FAA. The consolidated statement shall use the format contained in Appendix 2, Consolidated Listing of Recording and Monitoring Devices.

c. CIVIL AVIATION SECURITY DIVISIONS AND STAFFS IN REGIONS AND CENTERS. Civil aviation security divisions and staffs in regions and centers as Servicing Security Elements (SSE) are responsible for:

(1) Providing advice and assistance to region and center management with regard to provisions of this order.

(2) Ensuring that inspections and surveys conducted of FAA facilities include evaluation of compliance with the provisions of this order.

(3) Advising ACS-1, through ACO by the most expeditious means, of instances involving violations of this order.

(4) Preparing in accordance with this order and submitting to the Internal Security Division, ACO-400, by July 7 of each year, a consolidated listing of telephone recording and monitoring devices being utilized within their region or center. The consolidated listing shall use the format specified in appendix 2.

d. REGIONAL ADMINISTRATORS AND ASSOCIATE AND ASSISTANT ADMINISTRATORS IN THE WASHINGTON HEADQUARTERS are responsible within their respective areas of jurisdiction for:

(1) Approving requirements for recording or monitoring of telephone conversations in accordance with this order.

(2) Authorizing the procurement and use of message announcing or recording devices and transmitter cut-off switches.

(3) Forwarding to ACS-1 through the appropriate SSE prior to the beginning of the monitoring operations, written determinations that telephone monitoring and/or recording is required and all approvals for procurement of message announcing or recording devices and transmitter cut-off switches.

(4) Ensuring in coordination with the SSE that approval determinations authorizing listening-in or recording are reviewed at least every 2 years to ensure that the circumstances and the justification have not changed.

(5) Requiring that an accurate record be maintained of the number, costs, justification, and exact location of each recording or monitoring device installed and that this information be provided in writing to the SSE.

(6) Ensuring that recording and monitoring devices are removed and ACS-1 notified as soon as the requirement for their use no longer exists.

(7) Ensuring that the procedures and controls contained in appendix 3 are understood and utilized by all personnel authorized to listen-in to, record, or monitor conversations on telephone and telecommunications systems.

(8) Ensuring in coordination with the appropriate SSE that a consolidated statement listing the number, costs, justification, and precise location of each message announcing or recording device and transmitter cut-off switch installed is submitted each calendar year to ACS-1 using the format in appendix 2. The statement shall be current as of July 1 of each year and shall be furnished to ACS-1 through ACO-400 not later than July 7 of each year.

e. THE DIRECTOR, AERONAUTICAL CENTER, AND THE DIRECTOR, FAA TECHNICAL CENTER. These officials have the same responsibilities and reporting requirements within their respective areas of jurisdiction as listed for associate and assistant administrators in the Washington headquarters in paragraphs 14d(1) through d(8).

15. EXCLUSIONS.

a. For the purpose of this order, recording equipment does not include devices which produce a printed or image record as an inherent feature of a telecommunications system such as a teletypewriter, automatic data processing terminal, and facsimile, provided such equipment is not used in contravention of the requirements for consensual recording of telephone conversations set forth in appendix 3.

b. FAA elements that conduct business using telephone systems that automatically transmit and record messages such as the Administrator's hotline are exempt from the provisions of this order, provided that such equipment is approved by the Federal Communications Commission.

c. All interagency teleconferences using FAA Operations Centers equipment are for conducting official Government business only and, unless otherwise stated, are assumed to be monitored for service quality. These teleconferences may be recorded at the request of participants, provided such recording is announced.

d. FAA Operations Centers may routinely monitor calls conducted for emergency operations (natural disasters, aviation accidents and incidents, hijackings, etc.) in order to provide continuous service toward resolution. If a participant requests a call not be monitored, this exclusion does NOT apply.

David R. Hinson
Administrator

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Appendix 1

APPENDIX 1. GLOSSARY

1. Consensual. At least one party to a telephone conversation knows it is happening or has given prior consent. (FIRMR 41 CFR Part 201-21.603(b).)
2. Determination. A determination as used in this order means a written justification signed by the agency head or the agency head's designee, that specifies the operational need for listening-in to or recording telephone conversations, indicates the specific system and location where monitoring is to be performed, lists the number of telephones or recorders involved, establishes operating times, and an expiration date for the monitoring.
3. Listening-in Devices. Devices that can intercept any telephone communication and can be used to listen-in or record telephone conversations without the knowledge of one or more of the parties to the conversation.
4. Nonconsensual Recording or Monitoring. Listening-in or recording of telephone conversations done without the knowledge of any of the parties to the conversation. (FIRMR 41 CFR Part 201-21.603(b).)
5. Service Monitoring. The monitoring of telephone conversations by supervisors to determine the quality of service being provided to the public.
6. Telecommunications. Telecommunications services means the transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, or any other electronic, electric, electromagnetic, or acoustically coupled means. The term includes the telecommunications facilities necessary to provide such services.
7. Transmitter Cut-Off Switch or Push-to-Talk Switch. A feature that can be added to a telephone instrument which permits an individual to listen to an incoming signal, which will prevent the transmission of an outgoing signal until such time as the transmitter portion of the telephone instrument is activated.

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Appendix 2

APPENDIX 2. CONSOLIDATED LISTING OF RECORDING AND MONITORING DEVICES

1. **Purpose.** This appendix provides guidance on the format to be used for submitting the required information concerning telephone monitoring and recording devices that fall within the purview of this order.
2. **Requirement.** Order 1600.24D requires that officials exercising determination approval authority, as defined in the order, submit to ACS an annual consolidated statement listing the number, costs, justification, and precise location of each message announcing or recording device and transmitter cutoff switch that has been approved for use. If there is any doubt as to whether or not a specific device should be included in the annual listing, guidance should be obtained from the appropriate servicing security element (SSE) or ACO-400.
3. **Approach.** The annual listing shall be submitted using a memorandum format with attachment, as indicated in Figures 1 and 2.

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APPENDIX 2. CONSOLIDATED LISTING OF RECORDING
AND MONITORING DEVICES
FIGURE 1. SAMPLE OF MEMORANDUM FORMAT



U.S. Department
of Transportation
Federal Aviation
Administration

Memorandum

Subject: **INFORMATION:** Consolidated Listing of Recording and
Monitoring Devices for (Enter Calendar Year).

Date:

From: (Identification of Region, Center, Office or Headquarters
Submitting Information)

Reply to
Attn. of.

To: Office of the Associate Administrator for Civil Aviation
Security, ACS-1
THRU: ACO-400

In accordance with the provisions of Order 1600.24D, forwarded as attachment is a complete
and current listing of all telephone recording and monitoring devices for which approval
determination has been made within this (region, center, Washington headquarters, etc.).

A copy of this information has been provided to the servicing security element.

(Signature of the official having
determination approval authority.)

Attachment

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APPENDIX 3. PROCEDURES

1. NONCONSENSUAL RECORDING/MONITORING. Nonconsensual listening-in or recording of telephone conversations shall be authorized and handled in accordance with the requirements of the Omnibus Crime Control and Safe Streets Act of 1968 as amended (18 U.S.C. 2510 et seq.) and the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

2. CONSENSUAL RECORDING/MONITORING. Consensual listening-in or recording of telephone conversations on the Federal Telecommunications System (FTS) or any other telephone system approved in accordance with the Federal Property and Administrative Services Act of 1949, Sections 201(a)(1) and (3); Title 40 U.S.C. Sections 481(a)(1) and (3); and implementing regulations thereof is prohibited except under the following conditions:

a. When performed for civilian and military law enforcement purposes in accordance with the Attorney General's guidelines for administration of the Omnibus Crime Control and Safe Streets Act of 1968, and in accordance with procedures established by the Attorney General. Additional requirements for the documentation of monitoring activities pursuant to this Act are:

(1) The identity of the individual who approved this action must be documented in advance.

(2) An emergency procedure for use when advance approval is not possible. Emergency procedures shall be in accordance with the procedures established by the Attorney General.

(3) All actions taken shall be documented.

(4) An appropriate system of records administration and dissemination procedures shall be maintained.

(5) Quarterly reports shall be made to the OST, Assistant Secretary for Administration.

b. When performed for counterintelligence purposes and approved by the Attorney General or the Attorney General's designee.

c. When performed by any FAA employee for public safety purposes and when documented prior to implementation by a determination approved by the Administrator or his designee citing the public safety needs. The determination may be in

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the form of a notice in the Federal Register, an FAA manual or directive signed by the appropriate authority, or other type of official publication available to the general public and used to disseminate agency policy and procedures. The determination must identify the segment of the public needing protection and cite examples of the hurt, injury, danger, or risks from which the public is to be protected. Examples of these practices are police and fire department operations, FAA command centers, air traffic control centers, and air/sea rescue operations.

d. When performed by a handicapped employee provided that a physician has certified (and the Administrator or his designee concurs) that the employee is physically handicapped and the Administrator or his designee approves beforehand a determination that the use of a listening-in or recording device is required to perform the duties of the official position description fully. Equipment shall be for the exclusive use of the handicapped employee. The records of any recordings by handicapped employees shall be used, safeguarded, and destroyed in accordance with appropriate FAA records management and disposition systems.

e. When performed by the FAA for service monitoring but only after analysis of alternatives and a determination approved by the Administrator or designee that monitoring is required to perform the FAA's mission effectively. Strict controls shall be established and adhered to for this type of monitoring. Service personnel who monitor listening-in or recording devices for the purpose of service monitoring shall be designated in writing by the head of the FAA supervisory office and shall adhere to the following instructions:

(1) No telephone call shall be monitored unless the FAA has taken continuous, positive action (notices, periodic education, etc.) to inform the callers of the monitoring.

(2) No data identifying the caller shall be recorded by the monitoring party.

(3) The number of calls to be monitored shall be kept to the minimum necessary to compose a statistically valid sample.

(4) FAA telephone instruments that are subject to being monitored for service purposes shall be conspicuously labeled with a statement to that effect.

(5) Since no identifying data of the calling party shall be recorded, information obtained by the monitoring shall not be used against the calling party.

f. When performed by an FAA employee with the consent of all parties for each specific instance. This includes telephone conferences, secretarial recordings, and other acceptable administrative practices. Strict supervisory controls shall be maintained to eliminate any possible abuse of this privilege. Determinations are not required for these kinds of recordings.

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3. ADDITIONAL PROCEDURES AND RELATED REQUIREMENTS. The following additional procedures and related requirements apply to the use of recording, listening, or monitoring equipment devices or practices:

a. Recordings (stenographic or electronic) of meetings, conferences, briefings, hearings, etc., may be made provided that at least one of the following conditions are met:

(1) The intention to record is announced at the start of the meeting, conference, etc.

(2) The requirement to maintain a record of the proceeding is established by the particular FAA regulation, directive, or announcement under which the meeting, conference, etc., is convened.

b. All parties must be informed that a call is being recorded by one of the following methods:

(1) The prior mutual consent (oral or written) of all parties to the conversation is obtained.

(2) An oral notification which is recorded at the beginning, and as a part of the call, by the recording party.

(3) An automatic signal of a distinct type (e.g., beep tone) is superimposed over the conversation at regular intervals to alert all parties to the fact that the conversation is being recorded.

c. When it is determined on a case-by-case basis that it is essential in the conduct of FAA business that recordings be made of conversations held over a specific telephone line or multiple channels coming into a given space, the following requirements apply:

(1) The recording equipment shall be wired into the telephone circuit via a Federal Communications Commission (FCC) approved connector.

(2) The recording device must be an FCC approved device. It shall provide a warning feature ("beeper") to alert callers that the telephone conversation is being recorded.

d. Use of Transmitter Cut-off and Push-to-Talk Switches. Telephone instruments can be obtained with a feature which will permit an individual to listen to an incoming signal but which will prevent the transmission of an outgoing signal until such time as the transmitter portion of the telephone instrument is activated. These features are

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commonly referred to as transmitter cut-off switches or push-to-talk switches. These features shall not be obtained or used in FAA except where one of the following conditions exist:

(1) The telephone is located in a room or space where an unusually high level of background noise exists which would be transmitted over the line and seriously interfere with the telephone conversation.

(2) The telephone is located in a room or space where sensitive or classified information is routinely discussed or processed.

e. Line identification equipment may be installed in FTS telephone facilities to assist Federal law enforcement agencies to investigate threatening telephone calls, bomb threats, and other criminal activities provided that no invasion of privacy is involved, and the use of such equipment does not violate the Privacy Act of 1974 or any Federal or State wiretap laws; e.g., Title III of the Omnibus Crime Control and Safe Streets Act of 1968.

f. Determinations are not required for automatic message receiving machines/features used to receive incoming calls provided they do not fall under the requirements of this appendix.

4. REPORTING VIOLATIONS. FAA employees who are aware of violations of this order or of failure to follow the procedures specified above shall report this information to their immediate supervisor, the SSE, or ACO-400, in accordance with the provisions of this order and paragraph 216 of Order 3750.4, Conduct and Discipline.